

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE BROCADE COMMUNICATIONS  
SYSTEMS, INC. DERIVATIVE  
LITIGATION

No.: C 05-02233 CRB

~~[PROPOSED]~~ ORDER GRANTING  
ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES SHOULD  
BE RELATED PURSUANT TO L.R.3-12 (b)

This Document Relates to:

ALL ACTIONS

1 Plaintiff Mary E. Barbour, as Trustee for the Mary E. Barbour Family Trust  
2 One, has moved for consideration of whether *Mary E. Barbour as Trustee for the*  
3 *Mary E. Barbour Family Trust One v. Gregory L. Reyes*, Case No. CV08-2029-  
4 JSW, filed on April 18, 2008, is related to the cases of *In re Brocade*  
5 *Communications Sys., Inc. Derivative Litig.*, Case No. CV 05-02233-CRB and *In*  
6 *re Brocade Communications Systems, Inc. Sec. Litig.*, Case No. CV 05-02042-  
7 CRB.

8 Pursuant to Civil L.R. 3-12, the Court finds that the cases are related. They  
9 involve similar parties and events. Plaintiff Barbour's Complaint is a shareholder  
10 derivative complaint on behalf of nominal defendant Brocade Communications  
11 Systems, Inc. and contains causes of action relating to the stock options backdating  
12 activity which forms the basis of Case No. CV 05-02233-CRB and Case No. CV  
13 05-02042-CRB. While there are different causes of action, claims and parties in  
14 the related cases, and while Case No. CV05-02042-CRB is a securities fraud class  
15 action case and the other cases are shareholder derivative actions, the Complaints  
16 contain similar factual allegations. It appears likely that there will be an unduly  
17 burdensome duplication of labor and expense and potentially conflicting results if  
18 these cases are conducted before different judges. Therefore, assignment of a  
19 single judge is likely to conserve judicial resources and promote an efficient  
20 determination of the actions. However, since the *Barbour* action alleges demand  
21 futility and the currently pending derivative cases have conceded demand and since  
22  
23  
24  
25  
26  
27  
28

1 there is no operative complaint in Case No. 05-02233, the *Barbour* action is not  
2 consolidated into Case No. 05-02233.

3  
4 Plaintiff Barbour's case is ordered transferred to this Court.

5 IT IS SO ORDERED.

6  
7  
8 DATED: May 27, 2008.

